

State of Arizona
House of Representatives
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 261
HOUSE BILL 2019

AN ACT

AMENDING SECTIONS 41-1378 AND 42-2003, ARIZONA REVISED STATUTES; MAKING
APPROPRIATIONS; RELATING TO TAX ADMINISTRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-1378, Arizona Revised Statutes, is amended to
3 read:

4 41-1378. Complaint; investigation; investigative authority;
5 violation; classification

6 A. All complaints shall be addressed to the ombudsman-citizens aide.
7 If an agency receives correspondence between a complainant and the
8 ombudsman-citizens aide, it shall hold that correspondence in trust and shall
9 promptly forward the correspondence, unopened, to the ombudsman-citizens
10 aide.

11 B. Within thirty days of receipt of the complaint, the
12 ombudsman-citizens aide shall notify the complainant of the decision to
13 investigate or not to investigate the complaint. If the ombudsman-citizens
14 aide decides not to investigate and if requested by the complainant, the
15 ombudsman-citizens aide shall provide the reasons for not investigating in
16 writing.

17 C. The ombudsman-citizens aide shall not charge any fees for
18 investigations or complaints.

19 D. In an investigation, the ombudsman-citizens aide may:

20 1. Make inquiries and obtain information considered necessary subject
21 to the restrictions in section 41-1377.

22 2. Enter without notice to inspect agency premises with agency staff
23 on the premises.

24 3. Hold hearings.

25 4. Notwithstanding any other law, have access to all state agency
26 records, including confidential records, except:

27 (a) Sealed court records without a subpoena.

28 (b) Active criminal investigation records.

29 (c) Records that could lead to the identity of confidential police
30 informants.

31 (d) Attorney work product and communications that are protected under
32 the attorney-client privilege.

33 (e) Confidential information as defined in section 42-2001 except as
34 provided in section 42-2003, subsection M- N.

35 (f) Information protected by section 6103(d), 6103(p)(8) or 7213 of
36 the internal revenue code.

37 (g) Confidential information relating to section 36-2903, subsection
38 J, section 36-2917, section 36-2932, subsection F or section 36-2972.

39 (h) Confidential information relating to sections 36-507, 36-509 and
40 36-2220.

41 5. Issue subpoenas if necessary to compel the attendance and testimony
42 of witnesses and the production of books, records, documents and other
43 evidence to which the ombudsman-citizens aide may have access pursuant to
44 paragraph 4 of this subsection. The ombudsman-citizens aide may only issue
45 a subpoena if the ombudsman-citizens aide has previously requested testimony

1 or evidence and the person or agency to which the request was made has failed
2 to comply with the request in a reasonable amount of time.

3 E. It is contrary to the public policy of this state for any state
4 agency or any individual acting for a state agency to take any adverse action
5 against an individual in retaliation because the individual cooperated with
6 or provided information to the ombudsman-citizens aide or the
7 ombudsman-citizens aide's staff.

8 F. If requested by the complainants or witnesses, the
9 ombudsman-citizens aide shall maintain confidentiality with respect to those
10 matters necessary to protect the identities of the complainants or witnesses.
11 The ombudsman-citizens aide shall ensure that confidential records are not
12 disclosed by either the ombudsman-citizens aide or staff to the
13 ombudsman-citizens aide. The ombudsman-citizens aide shall maintain the
14 confidentiality of an agency record. With respect to requests made pursuant
15 to title 39, chapter 1, article 2 or other requests for information, the
16 ombudsman-citizens aide shall maintain all records in the same manner that
17 the ombudsman-citizens aide receives from the custodial agency as those on
18 the custodial agency.

19 G. The ombudsman-citizens aide or any staff member or other employee
20 of the ombudsman-citizens aide who knowingly divulges or makes known in any
21 manner not permitted by law any particulars of any record, document or
22 information for which the law restricts disclosure is guilty of a class 5
23 felony.

24 Sec. 2. Section 42-2003, Arizona Revised Statutes, is amended to read:
25 42-2003. Authorized disclosure of confidential information

26 A. Confidential information relating to:

27 1. A taxpayer may be disclosed to the taxpayer, its successor in
28 interest or a designee of the taxpayer who is authorized in writing by the
29 taxpayer. A PRINCIPAL CORPORATE OFFICER OF A PARENT CORPORATION MAY EXECUTE
30 A WRITTEN AUTHORIZATION FOR A CONTROLLED SUBSIDIARY.

31 2. A corporate taxpayer may be disclosed to any principal officer of
32 the corporation, ANY PERSON DESIGNATED BY A PRINCIPAL OFFICER OR ANY PERSON
33 DESIGNATED IN A RESOLUTION BY THE CORPORATE BOARD OF DIRECTORS OR OTHER
34 SIMILAR GOVERNING BODY.

35 3. A partnership may be disclosed to any partner of the partnership.
36 This exception does not include disclosure of confidential information of a
37 particular partner unless otherwise authorized.

38 4. An estate may be disclosed to the personal representative of the
39 estate and to any heir, next of kin or beneficiary under the will of the
40 decedent if the department finds that the heir, next of kin or beneficiary
41 has a material interest which will be affected by the confidential
42 information.

43 5. A trust may be disclosed to the trustee or trustees, jointly or
44 separately, and to the grantor or any beneficiary of the trust if the

1 department finds that the grantor or beneficiary has a material interest
2 which will be affected by the confidential information.

3 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
4 to confidentiality either in writing or on the record in any administrative
5 or judicial proceeding.

6 7. A claimant may be disclosed to the claimant, its successor in
7 interest or a designee of the claimant pursuant to written authorization by
8 the claimant.

9 B. Confidential information may be disclosed to:

10 1. Any employee of the department whose official duties involve tax
11 or unclaimed property administration.

12 2. The office of the attorney general solely for its use in
13 preparation for, or in an investigation which may result in, any proceeding
14 involving tax or unclaimed property administration before the department or
15 any other agency or board of this state, or before any grand jury or any
16 state or federal court.

17 3. The department of liquor licenses and control for its use in
18 determining whether a spirituous liquor licensee has paid all transaction
19 privilege taxes and affiliated excise taxes incurred as a result of the sale
20 of spirituous liquor at the licensed establishment and imposed on the
21 licensed establishments by this state and its political subdivisions.

22 4. Other state tax or unclaimed property officials of this state whose
23 official duties require the disclosure for proper tax or unclaimed property
24 administration purposes if the information is sought in connection with an
25 investigation or any other proceeding conducted by the official. Any
26 disclosure is limited to information of a taxpayer or claimant who is being
27 investigated or who is a party to a proceeding conducted by the official.

28 5. The following agencies, officials and organizations, if they grant
29 substantially similar privileges to the department for the type of
30 information being sought, pursuant to statute and a written agreement between
31 the department and the foreign country, agency, state, Indian tribe or
32 organization:

33 (a) The United States internal revenue service, United States bureau
34 of alcohol, tobacco and firearms, United States drug enforcement agency and
35 federal bureau of investigation.

36 (b) A state tax or unclaimed property official of another state.

37 (c) An organization of states that operates an information exchange
38 for tax administration purposes.

39 (d) An agency, official or organization of a foreign country with
40 responsibilities that are comparable to those listed in subdivision (a), (b)
41 or (c) of this paragraph.

42 (e) An agency, official or organization of an Indian tribal government
43 with responsibilities comparable to the responsibilities of the agencies,
44 officials or organizations identified in subdivision (a), (b) or (c) of this
45 paragraph.

1 6. The auditor general, in connection with any audit of the department
2 subject to the restrictions in section 42-2002, subsection C.

3 7. Any person to the extent necessary for effective tax or unclaimed
4 property administration in connection with:

5 (a) The processing, storage, transmission and reproduction of the
6 information.

7 (b) The programming, maintenance, repair, testing and procurement of
8 equipment for purposes of tax administration.

9 8. The office of administrative hearings relating to taxes
10 administered by the department pursuant to section 42-1101, but the
11 department shall not disclose any confidential information:

12 (a) Regarding income tax, withholding tax or estate tax.

13 (b) On any tax issue relating to information associated with the
14 reporting of income tax, withholding tax or estate tax.

15 9. The United States treasury inspector general for tax administration
16 for the purpose of reporting a violation of internal revenue code section
17 ~~7213(a)~~ 7213A (26 United States Code section ~~7213a~~ 7213A), unauthorized
18 inspection of returns or return information.

19 10. THE FINANCIAL MANAGEMENT SERVICE OF THE UNITED STATES TREASURY
20 DEPARTMENT FOR USE IN THE TREASURY OFFSET PROGRAM.

21 C. Confidential information may be disclosed in any state or federal
22 judicial or administrative proceeding pertaining to tax or unclaimed property
23 administration if the taxpayer or claimant is a party to the proceeding.

24 D. Identity information may be disclosed for purposes of notifying:

25 1. Persons entitled to tax refunds if the department is unable to
26 locate the persons after reasonable effort.

27 2. Owners of unclaimed property pursuant to section 44-309.

28 E. The department, upon the request of any person, shall provide the
29 names and addresses of bingo licensees as defined in section 5-401 or verify
30 whether or not a person has a privilege license and number or withholding
31 license and number.

32 F. A department employee, in connection with the official duties
33 relating to any audit, collection activity or civil or criminal
34 investigation, may disclose return information to the extent that disclosure
35 is necessary to obtain information which is not otherwise reasonably
36 available. These official duties include the correct determination of and
37 liability for tax, the amount to be collected or the enforcement of other
38 state tax revenue laws.

39 G. If an organization is exempt from this state's income tax as
40 provided in section 43-1201 for any taxable year, the name and address of the
41 organization and the application filed by the organization upon which the
42 department made its determination for exemption together with any papers
43 submitted in support of the application and any letter or document issued by
44 the department concerning the application are open to public inspection.

1 H. Confidential information relating to transaction privilege tax, use
2 tax and rental occupancy tax may be disclosed to any county, city or town tax
3 official if the information relates to a taxpayer who is or may be taxable
4 by the county, city or town. Any taxpayer information released by the
5 department to the county, city or town:

6 1. May only be used for internal purposes.

7 2. May not be disclosed to the public in any manner that does not
8 comply with confidentiality standards established by the department. The
9 county, city or town shall agree in writing with the department that any
10 release of confidential information that violates the confidentiality
11 standards adopted by the department will result in the immediate suspension
12 of any rights of the county, city or town to receive taxpayer information
13 under this subsection.

14 I. The department may disclose statistical information gathered from
15 confidential information if it does not disclose confidential information
16 attributable to any one taxpayer or claimant of unclaimed property. In order
17 to comply with the requirements of section 42-5029, subsection A, paragraph
18 3, the department may disclose to the state treasurer statistical information
19 gathered from confidential information, even if it discloses confidential
20 information attributable to a taxpayer.

21 J. THE DEPARTMENT MAY DISCLOSE THE AGGREGATE AMOUNTS OF ANY TAX
22 CREDIT, TAX DEDUCTION OR TAX EXEMPTION ENACTED AFTER JANUARY 1, 1994.
23 INFORMATION SUBJECT TO DISCLOSURE UNDER THIS SUBSECTION SHALL NOT BE
24 DISCLOSED IF A TAXPAYER DEMONSTRATES TO THE DEPARTMENT THAT SUCH INFORMATION
25 WOULD GIVE AN UNFAIR ADVANTAGE TO COMPETITORS.

26 ~~J.~~ K. Except as provided in section 42-2002, subsection B,
27 confidential information, described in section 42-2001, paragraph 3,
28 subdivision (a), item (iii), may be disclosed to law enforcement agencies for
29 law enforcement purposes.

30 ~~K.~~ L. The department may disclose and publish the names of
31 corporations, the dividends of which qualify for the subtraction provided by
32 section 43-1128.

33 ~~L.~~ M. The department may provide transaction privilege tax license
34 information to property tax officials in a county for the purpose of
35 identification and verification of the tax status of commercial property.

36 ~~M.~~ N. The department may provide transaction privilege tax, luxury
37 tax, use tax, property tax and severance tax information to the
38 ombudsman-citizens aide pursuant to title 41, chapter 8, article 5.

39 ~~N.~~ O. Except as provided in section 42-2002, subsection C, a court
40 may order the department to disclose confidential information pertaining to
41 a party to an action. An order shall be made only upon a showing of good
42 cause and that the party seeking the information has made demand upon the
43 taxpayer or claimant for the information.

44 ~~O.~~ P. This section does not prohibit the disclosure by the department
45 of any information or documents submitted to the department by a bingo

1 licensee. Before disclosing the information the department shall obtain the
2 name and address of the person requesting the information.

3 P. Q. If the department is required or permitted to disclose
4 confidential information, it may charge the person or agency requesting the
5 information for the reasonable cost of its services.

6 R. Except as provided in section 42-2002, subsection C, the
7 department of revenue shall release confidential information as requested by
8 the department of economic security pursuant to section 42-1122 or 46-291.
9 Information disclosed under this subsection is limited to the same type of
10 information that the United States internal revenue service is authorized to
11 disclose under section 6103(1)(6) of the internal revenue code.

12 R. S. To comply with the requirements of section 42-5031, the
13 department may disclose to the state treasurer, to the county stadium
14 district board of directors and to any city or town tax official that is part
15 of the county stadium district confidential information attributable to a
16 taxpayer's business activity conducted in the county stadium district.

17 Sec. 3. Appropriations; purpose

18 A. The sum of \$146,250 is appropriated from the state general fund in
19 fiscal year 2001-2002 to the department of revenue to administer the federal
20 refund offset program.

21 B. The sum of \$146,250 is appropriated from the state general fund in
22 fiscal year 2002-2003 to the department of revenue to administer the federal
23 refund offset program.

APPROVED BY THE GOVERNOR APRIL 26, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 27, 2001.

Passed the House March 19, 2001,

Passed the Senate April 19, 2001,

by the following vote: 44 Ayes,

by the following vote: 29 Ayes,

9 Nays, 7 Not Voting

0 Nays, 1 Not Voting

Jake Flake
Speaker of the House
Pro Tempore
Norman L. Myre
Chief Clerk of the House

Randall Shatt
President of the Senate
Charmine Billested
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

 day of , 20 ,

at o'clock M.

Secretary to the Governor

Approved this day of

 , 20 ,

at o'clock M.

Governor of Arizona

H.B. 2019

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this day of , 20 ,

at o'clock M.

Secretary of State

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 24, 2001,

by the following vote: 48 Ayes,

6 Nays, 6 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

25 day of April, 2001,

at 8:05 o'clock A M.

[Signature]
Secretary to the Governor

Approved this 26 day of

April, 2001,

at 11:46 o'clock P M.

[Signature]
Governor of Arizona

H.B. 2019

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 27 day of April, 2001,

at 3:45 o'clock P M.

[Signature]
Secretary of State